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An Act To Prohibit a Person Whose Parental Rights Have Been Terminated from Gaining Custody of a Grandchild

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 18-A MRSA §5-206, as amended by PL 2005, c. 371, §3, is further amended to read:

§ 5-206. Court appointment of guardian of minor; qualifications; priority of minor's nominee

The court may appoint as guardian any person, or as coguardians more than one person, whose appointment is in the best interest of the minor. The court shall set forth in the order of appointment the basis for determining that the appointment is in the best interest of the minor. The court shall appoint a person nominated by the minor, if the minor is 14 years of age or older, unless the court finds the appointment contrary to the best interest of the minor. The court may not appoint a guardian for a minor child who will be removed from this State for the purpose of adoption. The appointment of the grandparent of a child whose parental rights with respect to any child have been terminated under Title 22, chapter 1071 or comparable law in another state is not in the best interest of the child and the court may not appoint such a person as guardian of the person's grandchild.

Sec. 2. 19-A MRSA §1653, sub-§2, ¶C, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

C. The court may award parental rights and responsibilities with respect to the child to a 3rd person, a suitable society or institution for the care and protection of children or the department, upon a finding that awarding parental rights and responsibilities to either or both parents will place the child in jeopardy as defined in Title 22, section 4002, subsection 6. The court may not award parental rights and responsibilities to a person who is the grandparent of the child if the person's parental rights with respect to any child have been terminated under Title 22, chapter 1071 or comparable law in another state.

Sec. 3. 19-A MRSA §1803, sub-§9 is enacted to read:

9. Ineligible if parental rights terminated. A grandparent may not be awarded rights of contact if the grandparent's parental rights with respect to any child have been terminated under Title 22, chapter 1071 or comparable law in another state.

SUMMARY

This bill amends the parental rights and responsibilities laws to ensure that a court does not award parental rights and responsibilities to a grandparent whose parental rights to any child have been terminated. It also prohibits the court from awarding rights of contact to a grandparent whose parental rights to any child have been terminated. This bill also amends the Probate Code to provide that

appointment of a person as the guardian of that person's grandchild is not in the best interest of the child if the person's parental rights with respect to any child have been terminated and that such an appointment may not be made.